

REMARKS

The First Rejection under 35 U.S.C. §103

The rejection of claims 1, 2, 4, 5, 7-11, 27-38, 43 and 44 under 35 U.S.C. §103, as being obvious over Yeadon (US Pub. No. 0147544) in view of Meissner (U.S. Patent No. 6,706,726) in view of Hoffman (U.S. Patent No. 6,417,190) in view of Freund (US Pub. No. 2001/0008632), is respectfully traversed.

Yeadon discloses a composition which combines an anticholinergic and a PDE4 inhibitor. However, as admitted in the Office action Yeadon fails to disclose the specific anticholinergic or one of the specific PDE4 inhibitors used in the specific combination of the claimed invention. To the contrary, Yeadon directs one of ordinary skill in the art to combining a different specific anticholinergic and different specific PDE4 inhibitor.

Meissner discloses compounds of their general formula 1 (see, col. 1, lines 10-30) as being anticholinergics. The Meissner formula generically encompasses formula 1 of applicants' claim 1 and the compound shown in Meissner's Example 1 is within the scope of formula 1 of applicants' claim 1. However, Meissner provides no teaching or suggestion of the use of its anticholinergics of formula 1 together with PDE-4 inhibitors.

Hoffman discloses certain specific PDE4 inhibitors which allegedly include some of the specific ones recited in the instant claims. However, Hoffman does not disclosure combining such PDE4 inhibitors with an anticholinergic, particularly the specific one of the instant claims.

Freund discloses aqueous solutions for propellant-free aerosols.

The primary basis for the obviousness rejection is that one of ordinary skill in the art would have been motivated to prepare a composition using a specific anticholinergic selected from Meissner in place of the specific anticholinergic disclosed in Yeadon and one of ordinary skill in the art would have been motivated to prepare a composition using a specific PDE4 inhibitor selected from Hoffman in place of the specific PDE4 inhibitors disclosed in Yeadon.

Applicants respectfully disagree that one of ordinary skill in the art is provided with adequate reasons to make such substitutions. See, e.g., KSR International Co. v. Teleflex Inc., 550 U.S. ___, 82 USPQ2d 1385, at 1396 (2007), stating: “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”

There is no basis on the record to assume that such significant substitutions would not effect the properties of the compounds and that these compounds would be interchangeably useful. To the contrary, Yeadon specifically points out which anticholinergics and PDE4 inhibitors should be used when such types of compounds are combined and points one of ordinary skill in the art to combinations distinct from applicants' combination – as to both components. Further directing one of ordinary skill in the art away from applicants' invention is the fact that Meissner does not suggest the use of its anticholinergics of formula 1 together with PDE-4 inhibitors and Hoffman does not suggest the use of its PDE-4 inhibitors together with an anticholinergic. Freund is cited only for its teachings about the form of the composition and also gives no reason for one of ordinary skill in the art to make the specific combination of the claimed invention.

In view of all of the above, applicants urge that the cited prior art does not provide a reasonable suggestion to one of ordinary skill in the art to make the particular combination of a compound of formula 1 of the instant claims together with a specific PDE-4 inhibitor, as recited in claim 1. To the contrary, the teachings of the references considered as a whole would have pointed one of ordinary skill in the art away from making such specific combination. Thus, it is urged that the combined teachings of Yeadon, Meissner, Hoffman and Freund, considered as a whole, fail to suggest the claimed invention to one of ordinary skill in the art. Thus, the rejection under 35 U.S.C. §103 should be withdrawn.

The Second Rejection under 35 U.S.C. §103

The rejection of claims 1, 2, 4, 5, 7-11, 27-38, 43 and 44 under 35 U.S.C. §103, as being obvious over Yeadon (US Pub. No. 0147544) in view of Meissner (U.S. Patent No. 6,706,726) in view of Hoffman (U.S. Patent No. 6,417,190) in view of Hochrainer (CA 2345675, US Pub. No. 2001/0032643), is respectfully traversed.

Yeadon discloses a composition which combines an anticholinergic and a PDE4 inhibitor. However, as admitted in the Office action Yeadon fails to disclose the specific anticholinergic or one of the specific PDE4 inhibitors used in the specific combination of the claimed invention. To the contrary, Yeadon directs one of ordinary skill in the art to combining a different specific anticholinergic and different specific PDE4 inhibitor.

Meissner discloses compounds of their general formula 1 (see, col. 1, lines 10-30) as being anticholinergics. The Meissner formula generically encompasses formula 1 of applicants' claim 1 and the compound shown in Meissner's Example 1 is within the scope of

formula 1 of applicants' claim 1. However, Meissner provides no teaching or suggestion of the use of its anticholinergics of formula 1 together with PDE-4 inhibitors.

Hoffman discloses certain specific PDE4 inhibitors which allegedly include some of the specific ones recited in the instant claims. However, Hoffman does not disclosure combining such PDE4 inhibitors with an anticholinergic, particularly the specific one of the instant claims.

Hochrainer discloses aqueous solutions for propellant-free aerosols.

The primary basis for the obviousness rejection is that one of ordinary skill in the art would have been motivated to prepare a composition using a specific anticholinergic selected from Meissner in place of the specific anticholinergic disclosed in Yeadon and one of ordinary skill in the art would have been motivated to prepare a composition using a specific PDE4 inhibitor selected from Hoffman in place of the specific PDE4 inhibitors disclosed in Yeadon.

Applicants respectfully disagree that one of ordinary skill in the art is provided with adequate reasons to make such substitutions. See, e.g., KSR International Co. v. Teleflex Inc., 550 U.S. __, 82 USPQ2d 1385, at 1396 (2007), stating: "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." There is no basis on the record to assume that such significant substitutions would not effect the properties of the compounds and that these compounds would be interchangeably useful. To the contrary, Yeadon specifically points out which anticholinergics and PDE4 inhibitors should be used when such types of compounds are combined and points one of ordinary skill in the art to combinations distinct from applicants' combination – as to both components. Further directing one of ordinary skill in the art away from applicants' invention is the fact that Meissner does not suggest the use of its anticholinergics of formula 1 together with PDE-4 inhibitors and Hoffman does not suggest the use of its PDE-4 inhibitors together with an anticholinergic. Freund is cited only for its teachings about the form of the composition and also gives no reason for one of ordinary skill in the art to make the specific combination of the claimed invention.

In view of all of the above, applicants urge that the cited prior art does not provide a reasonable suggestion to one of ordinary skill in the art to make the particular combination of a compound of formula 1 of the instant claims together with a specific PDE-4 inhibitor, as recited in claim 1. To the contrary, the teachings of the references considered as a whole

would have pointed one of ordinary skill in the art away from making such specific combination. Thus, it is urged that the combined teachings of Yeadon, Meissner, Hoffman and Hochrainer, considered as a whole, fail to suggest the claimed invention to one of ordinary skill in the art. Thus, the rejection under 35 U.S.C. §103 should be withdrawn.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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